

COASTAL CONSERVANCY

Memorandum
October 1, 2015

To: Members of the Coastal Conservancy

From: Joel Gerwein, Project Manager

Re: Resolution required for applications to California Natural Resource Agency's
Environmental Enhancement and Mitigation (EEM) Grant Program

RECOMMENDED ACTION: Consideration and possible adoption of a resolution providing the assurances required for applications to the California Natural Resources Agency's Environmental Enhancement and Mitigation Grant Program for the White Slough Restoration Project and the Klamath River Estuary Wetlands Conservation Project.

EXHIBITS

- Exhibit 1: [EEM Applications for the White Slough Restoration Project and the Klamath River Estuary Wetlands Conservation Project](#)
 - Exhibit 2: [EEM Grant Program Guidelines](#)
 - Exhibit 3: [Project Location Maps](#)
 - Exhibit 4: [White Slough Restoration Project Staff Recommendation](#)
 - Exhibit 5: [Project Letters](#)
-

RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31000 et seq. of the Public Resources Code:

“WHEREAS, the Legislature and Governor of the State of California have enacted Section 164.56 of the California Streets And Highways Code establishing the Environmental Enhancement and Mitigation Program Fund, which is intended to provide grant funds to local, state and federal agencies and nonprofit entities for projects to enhance and mitigate the environmental impacts of modified or new public transportation facilities; and

WHEREAS, the California Natural Resources Agency has been delegated the responsibility for the administration of this grant program (“EEM Grant Program”), establishing necessary procedures and criteria, and is required to submit to the California Transportation Commission a list of recommended projects from which the grant recipients will be selected; and

WHEREAS, these procedures established by the California Natural Resources Agency (CNRA) require a resolution certifying the approval of an application by the applicant's governing board before submission of the application to the CNRA; and

WHEREAS, the applicant, if selected, will enter into an agreement with the CNRA to carry out the Project, and

WHEREAS, the White Slough Restoration Project ("White Slough Project") involves the restoration and enhancement of 56 acres of tidal marsh on the Humboldt Bay National Wildlife Refuge in South Humboldt Bay, and

WHEREAS, the Klamath River Estuary Wetlands Conservation Project seeks to conserve over 117 acres of coastal lands at the mouth of the Klamath River in southern Del Norte County in order to protect the unique natural habitats that occur on the property and to keep this viable working ranch intact.

NOW, THEREFORE, BE IT RESOLVED that the California State Coastal Conservancy (Conservancy):

1. Approves the filing of applications for the White Slough Project and the Klamath River Estuary Wetlands Conservation Project; and
2. Certifies that its staff understand the requirements in the EEM Grant Program Guidelines;
3. Certifies that it will require the project property owners or others to have sufficient funds to operate and maintain the projects consistent with the land tenure requirements; or will secure the resources to do so; and
4. Certifies that it will require project property owners to record a document against the real property that protects the State's interest in the property; and
5. Certifies that it will require the subgrantees to comply with the provisions of the State Labor Code regarding payment of prevailing wages on projects awarded EEM Grant Program Funds; and
6. If applicable, certifies that it will require subgrantees to comply with any laws and regulations including, but not limited to, legal requirements for building codes, health and safety codes, disabled access laws, environmental laws and, that prior to commencement of construction, all applicable licenses and permits will have been obtained; and
7. Certifies that the Conservancy will work towards the Governor's State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1; and
8. Appoints the Executive Officer, or designee, as agent to accept funds received from the EEM Grant Program, conduct all negotiations, execute and submit all documents including, but not limited to applications, grant agreements, payment requests etc., which may be necessary for the completion of the aforementioned projects."

Staff further recommends that the Conservancy adopt the following finding:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with the Conservancy’s statutory responsibilities under Division 21 of the Public Resources Code.
2. The proposed projects for which funds are sought are consistent with the current Conservancy Project Selection Criteria and Guidelines.”

PROJECT SUMMARY:

Background

In Spring 2015, Conservancy staff submitted two grant applications to the Environmental Enhancement and Mitigation (“EEM”) Grant Program, which is jointly administered by the California Natural Resources Agency and Caltrans (Exhibit 1). The EEM Grant Program Guidelines require that each grant applicant submit a resolution from its governing board to accompany its grant applications (Exhibit 2). The resolution must approve each application and provide the assurances set forth in the proposed resolution in the RESOLUTION AND FINDINGS section of this report. Staff has reviewed the assurances and recommends that the Conservancy adopt the resolution. Staff has reviewed the EEM Grant Program Guidelines and understands the requirements of these guidelines. If grants are awarded, the Conservancy will be able to impose the grant conditions required by the guidelines. The required resolution includes the Conservancy’s assurance that it will work towards the Governor’s State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code Section 65041.1. This certification is appropriate because Government Code Section 65041.1(b) states that one of the State’s planning priorities is:

To protect environmental and agricultural resources by protecting, preserving, and enhancing the state’s most valuable natural resources, including working landscapes such as farm, range, and forest lands, natural lands such as wetlands, watersheds, wildlife habitats, and other wildlands, recreation lands such as parks, trails, greenbelts, and other open space, and landscapes with locally unique features and areas identified by the state as deserving special protection.

The Conservancy’s work generally, and the two projects discussed below in particular, are consistent with this priority in that they will result in the protection and enhancement of working landscapes and natural lands. Thus, each of the assurances required to apply for and receive EEM grant funds is appropriate and staff recommends that the Conservancy adopt the resolution.

If EEM grant funds are awarded to the Conservancy for these projects, the funds will not be disbursed until Conservancy authorization has been obtained for their disbursement. The projects are discussed in greater detail below.

White Slough Restoration Project

The White Slough Restoration Project (“White Slough Project”) involves the restoration and enhancement of 56 acres of tidal marsh on the Humboldt Bay National Wildlife Refuge in South Humboldt Bay (Exhibit 3). The Conservancy authorized a grant for the implementation of the White Slough Project on March 26, 2015, adopting an Initial Study-Mitigated Negative Declaration (IS-MND) under the California Environmental Quality Act for the White Slough Project, and finding that there is no substantial evidence that project implementation, as mitigated, will have a significant effect on the environment (Exhibit 4). Adequate funds have been secured for the implementation of Phase I of the White Slough Project, which has independent utility, but additional funds must be secured in order to implement Phase II, as indicated in the staff recommendation for the White Slough Project (Exhibit 4). The Conservancy’s proposal to the EEM Grant Program seeks funding for Phase II. Phase II of the White Slough Project is covered by the IS-MND already adopted by the Conservancy.

Klamath River Estuary Wetlands Conservation Project

The Klamath River Estuary Wetlands Conservation Project (“KREWCP”) would result in the acquisition of a conservation easement by the Northcoast Regional Land Trust over 117 acres of coastal lands at the mouth of the Klamath River in southern Del Norte County. The goal of the KREWCP is to protect the unique natural habitats that occur on the property and to keep this viable working ranch intact. The project area encompasses 41 acres of seasonal freshwater wetlands and riparian habitats, plus an additional 76 acres of adjacent, upland forest and grassland habitats. The project is a partnership between the State Coastal Conservancy, the Northcoast Regional Land Trust, and a private landowner who has been voluntarily working with natural resource agencies for over 15 years to restore habitats in the area. The KREWCP will protect low-gradient coastal stream habitat that is critical to the recovery of listed salmonid populations in the Klamath River basin, one of the most important salmon-bearing rivers in the state. The property’s cold, spring-fed streams provide refugia for salmon and steelhead in the summer months, when temperatures in the Klamath River are high. In the rainy winters these low-gradient tributaries provide fish with backchannel habitat, offering respite from flood waters, and an environment in which fish have exhibited high rates of growth. A number of rare, threatened, or endangered species are known to occur in the KREWCP area, including coho salmon, eucalalon, and little willow flycatcher. In addition to its resource values, the proposed project would also protect a working ranch that is part of the cultural heritage of this agricultural region.

CONSISTENCY WITH CONSERVANCY’S ENABLING LEGISLATION:

Section 31104 of the Public Resources Code authorizes the Conservancy to apply for and accept external grants and other financial support from public and private sources.

If awarded funds, the projects are eligible for Conservancy grant funding. The consistency of the White Slough Project with the Conservancy’s enabling legislation is discussed in the staff recommendation attached as Exhibit 4. The KREWCP would be undertaken pursuant to Chapter 5.5 of the Conservancy’s enabling legislation, Public Resource Code Section 31220.

Consistent with Section 31220(a)(6), the KREWCP project would acquire and protect coastal wetlands, riparian areas, sensitive watershed lands, and fish and wildlife habitat within a coastal watershed in order to improve and protect coastal water quality and habitats. As required by Section 31220(a), the Conservancy would consult with the State Water Resources Control Board regarding the grant's consistency with Chapter 3 of Division 20.4 of the Public Resources Code, regarding water quality of coastal waters and beaches.

Consistent with Section 31220(b)(2), the conservancy may award a grant for a project that protects or restores fish and wildlife habitat within coastal watersheds. The KREWCP easement area lies within the Klamath River watershed, and the acquisition of an easement over the property for habitat protection will reduce threats to fish and wildlife, and protect coastal and riparian wetlands, floodplains and other sensitive watershed lands.

Consistent with Section 31220(c), KREWCP includes a monitoring and evaluation component to ensure that the easement terms are enforced and to assess the effects of ongoing management on the property's resources.

CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:

The proposed projects are consistent with the Conservancy's Project Selection Criteria and Guidelines, last updated on October 2, 2014. The consistency of the White Slough Project with the Conservancy's Project Selection Criteria and Guidelines is discussed in the staff recommendation attached as Exhibit 4. The KREWCP is consistent with the Project Selection Criteria and Guidelines in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See Exhibit 1 (Grant Applications) for a discussion of how these projects fit with the EEM Grant Program Guidelines.
3. **Promotion and implementation of state plans and policies:** The KREWCP will promote the implementation of the California Wildlife Action Plan (2007) by furthering the following plan goal for the North Coast-Klamath Region:

Federal, state, and local agencies, nongovernmental conservation organizations, and private landowners should protect and restore under-protected and sensitive habitat types.

The KREWCP will promote the implementation of the Water Quality Control Plan for the North Coast Region (2003), prepared by the North Coast Water Quality Control Board. This plan specifies beneficial uses and water quality objectives for water bodies throughout the North Coast, including the Klamath Glen Hydrologic Subarea (HSA), which includes the project area. By protecting wetlands and adjacent uplands, the KREWCP will protect the beneficial uses of the Klamath Glen HSA in the Klamath Hydrologic Unit identified in the Plan, which include 1) wildlife habitat,

- 2) rare, threatened and endangered species habitat, 3) cold freshwater habitat, and 4) nursery habitat.
4. **Support of the public:** The project enjoys public support, as evidenced by the attached support letters for the Conservancy's grant application to the National Coastal Wetlands Conservation program (Exhibit 5).
 5. **Location:** The proposed project is located within the coastal zone of Del Norte County.
 6. **Need:** While the landowner for the KREWCP, the Northcoast Regional Land Trust, and other partners are providing matching funds and in-kind contributions, the project will not occur without the Conservancy's participation.
 7. **Greater-than-local interest:** The Klamath River Estuary, though relatively small at about 1,800 acres, provides vital nursery and staging habitat for fish and wildlife, and is also of great cultural and economic value to the Yurok People. The Klamath River is one of the most important salmon streams in the entire state of California. The river supports federally threatened species of coho salmon, Chinook salmon, and steelhead trout. The estuary plays an important role in the life cycle of these anadromous species, and low-gradient tributary streams in the lower estuary are especially important in the rearing of juvenile salmonids.
 8. **Sea level rise vulnerability:** Protecting the KREWCP area will ensure that undeveloped upland habitat will be available for the migration of estuarine and riverine wetlands as sea level rises. Project area wetlands will also sequester carbon, reducing the magnitude of climate change.

COMPLIANCE WITH CEQA:

Under the California Environmental Quality Act (CEQA), a "project" consists of an action that may cause either a direct physical change or a reasonably foreseeable indirect change in the environment; and that is an activity directly undertaken or funded by a public agency, or an activity that involves the issuance of a permit or other entitlement. (Public Resources Code Section 21065). The CEQA Guidelines further define the term "project" and confirm that it does not include administrative activities of government that will not result in direct or indirect physical changes in the environment. (14 Cal Code Regs. Section 15378(b)(5)). Adoption of the proposed resolution is an administrative activity that does not have the potential to cause a physical change to the environment.

Authorization to disburse grant funds for implementation would constitute a "project", and prior to such disbursement, the underlying projects will be evaluated for CEQA compliance. As evidenced by Exhibit 4, the White Slough project has undergone CEQA review and the Conservancy has adopted the IS-MND developed for that project. The KREWCP is categorically exempt from the requirements of CEQA under 14 Cal. Code of Regulations Section 15325, because it involves the acquisition of an interest in land to preserve open space and wildlife habitat or restore natural conditions, including plant or animal habitats. However, as the Conservancy has not funded nor authorized the KREWCP, full review of the project will be undertaken if and when funding for the project is available.